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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,380	09/13/2005	Stephen John Kennedy	04242/0203345-US0	6157
7278	7590	10/16/2008		
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER LONEY, DONALD J	
			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			10/16/2008 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/549,380

Applicant(s)

KENNEDY, STEPHEN JOHN

Examiner

Donald Loney

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 5, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by either Almog (3783082) or Almog (3732138) as presented in the last office action, mailed March 21, 2008.

Almog '082 discloses two metal face sheets 2, 6 connected with a polymer material 8 with insulating material inserts 4 within the core. See figure 1. With regards to claims 2, 4, 5 and 6 a metal layer 42 is shown at least partially around insulating material 34b in figure 5. With regards to claim 7, glass wool is disclosed in column 2, line 66 for the insulating material. Almog '138 also discloses metal face sheets 112, 114, connected with a polymer material 119 with insulating material inserts 111 within the core. See figure 15. With regards to claims 2, 4, 5 and 6 a metal layer 115 is shown at least partially around insulating material in figure 15. With regards to claim 7, glass wool is disclosed in column 4, line 53 for the insulating material.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 3, 8, 9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Almog (3783082) or Almog (3732138) as presented in the last office action, mailed March 21, 2008.

The primary reference teaches the invention substantially as recited except for the barrier being in tube form per claim 3 and the specific properties of the insulating material per claims 8,9 and 11-13. See the 35 U.S.C. 102 rejection above.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the barrier in the form of a tube since both references show the barrier in a square type of form and this would merely involve an change in size and/or shape of the already known barrier around the insulating material. See MPEP 2144.04IV. With regards to the insulating properties of the insulating material per claims 8, 9 and 11-13, it would have been obvious to use what ever degree insulating material that is needed for a particular application since Almog teaches it to be an insulating material in the core.

6. Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kennedy (2001/0035266) as presented in the last office action, mailed March 21, 2008.

Kennedy, which is the by the same inventor as the instant application, discloses a product and process for forming the same comprising two metal face sheets (top and bottom one in figure 15) connected with an injected polymer core 138 which contains foam inserts within the core which can be considered the insulating material. Refer to the Abstract and figure 15.

Response to Arguments

7. Applicant's arguments filed June 30, 2008 have been fully considered but they are not persuasive. The applicant argues that the specification defines compact as unfoamed and therefore distinguishes from the rigid foam in both Almog patents. However, the specification, at the section referred to by the applicant discloses the core formed of plastic or polymer material, of which Almog meets. The specification discloses the core is "preferably a compact (i.e. unfoamed) polyurethane elastomer" of which limitation is not in the claim. Additionally, claims 1 and 10 uses an alternative language of the core being of "compact plastics or polymer material" of which the polyurethane is considered a polymer material in Almog. The applicant argues that Kennedy discloses additives to enhance the fire resistance of the core, not of the forms. However, Kennedy teaches a structure of metal face sheets with a core 138 of solid polymer material which has what can be considered forms 141, 143, 145, 147, 151 disposed therein.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald J. Loney/
Primary Examiner
Art Unit 1794

DJL;D.Loney
10/12/08